

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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Application of Calaveras Telephone Company (U1004C), Cal-Ore Telephone Co. (U1006C), Ducor Telephone Company (U1007C), Foresthill Telephone Company (U1009C), Kerman Telephone Co. (U1012C), Pinnacles Telephone Co. (U1013C), The Ponderosa Telephone Co. (U1014C), Sierra Telephone Company, Inc. (U1016C), The Siskiyou Telephone Company (U1017C), Volcano Telephone Company (U1019C) ("Independent Small LECS") for a Determination of Applicants' Cost of Capital for Ratemaking Purposes.

Application 15-09-005
(Filed September 1, 2015)

**PROTEST
OF THE OFFICE OF RATEPAYER ADVOCATES**

I. INTRODUCTION

Pursuant to Rule 2.6 of the California Public Utilities Commission's (Commission) Rules of Practice and Procedure (Rules), the Office of Ratepayer Advocates (ORA) hereby protests Application (A.) 15-09-005 filed by the Independent Small Local Exchange Carriers (Small LECs) for a determination of their cost of capital for 2015 and forward.¹ ORA opposes the Small LECs' request for an 18.50% rate of return on equity, which is almost double the historical rate. The Small LECs' have failed to provide evidence that their businesses face increased risks to their investments, which

¹ The Small LECs' Application was noticed in the Commission's Daily Calendar on September 11, 2015; pursuant to Commission Rule 2.6(a), ORA's protest would be due on October 11, which falls on a Sunday, making the due date October 12, 2015.

are protected by state and federal subsidies. The California High Cost Fund A (CHCF-A) ensures that shortfalls in customer revenues or federal support are protected by subsidies from the State of California.² By using an inflated rate of return on equity and an artificially skewed capital structure, the Small LECs' request results in an overall cost of capital that is far above what is needed to ensure their ongoing financial health.

II. BACKGROUND

The Commission adopted a General Rate Case (GRC) plan for California High Cost Fund-A recipients in D.15-06-048. In that decision, the Commission approved ORA and the Small LECs' request for a separate cost of capital proceeding, and approved a schedule beginning with the filing of an application to determine the Small LECs' cost of capital on September 1, 2015.

In their application, A.15-09-005, the Small LECs request the following:

- A cost of capital should be established in this proceeding and then be applied and implemented as part of company-specific ratemaking determinations in each of the rate cases for the Small LECs that will be processed from 2015 through 2019, including the pending rate case for Kerman Telephone Company in its GRC proceeding A.11-12-011.
- The proposed cost of equity is 18.50% for each company.
- The proposed capital structure is 70% equity and 30% debt for each company.
- No specific capital structure should be mandated by the Commission.
- Individual costs of debt will be determined for each company.
- Alternatively, if a single, overall weighted cost-of capital is adopted for all companies, it should be 14.6% calculated at a debt cost of 5.5%, equity cost of 18.5%, and a 70% equity and 30% debt capital structure.

² Public Utilities (Public Utilities) Code Section 275.6(c)(4). All statutory references herein are to the Public Utilities Code.

III. ISSUES TO BE ADDRESSED

A. Major Issues

ORA will present testimony and briefs opposing the Small LECs' request for an 18.50% rate of return on equity. This amount is far above the previously authorized returns and far above the amount necessary to ensure the ongoing financial health of each Small LEC. The Small LECs' current request results in a 46% increase in overall rates of return.

A major reason for the requested high rate of return on equity is the Small LECs' perceived fears of "risk." ORA will argue in testimony and briefs that the Small LECs' fears of risk are overstated in many respects, especially in light of the existence of CHCF-A subsidies that cover shortfalls in customer revenues or federal subsidies.

ORA also opposes the use of hypothetical capital structures that result in unreasonably high rates of return that are borne by ratepayers. Imputing a hypothetical capital structure should be limited to when a company's actual capital structure leads to unreasonable results for ratemaking purposes.³

Finally, the Small LECs' costs of debt need to be evaluated. Under the Small LECs alternative proposal, the requested single cost of debt of 5.5% needs to be evaluated, as well as its impact on the weighted average cost of capital (WACC) and resulting revenue requirements.

IV. OTHER PRELIMINARY CONCERNS

A. Potential Conflict with Kerman GRC, A.11-12-011

In this application, the Small LECs request that a cost of capital be determined for Kerman Telephone Company's (Kerman) 2011 GRC, A.11-12-011. However, Kerman's cost of capital was specifically within the scope of the Kerman GRC proceeding. In the summer of 2015, both Kerman and ORA presented voluminous testimony and evidence in that proceeding, and there were several days of hearings devoted solely to Kerman's

³ For example, where a Small LEC has 0% debt, the formula would be unworkable.

cost of capital. As recently as July, 2015, parties in A.11-12-011 submitted reply briefs on the issue of Kerman's cost of capital. That issue is currently awaiting a Commission decision. It would be administratively inefficient and duplicative of both the Commission's and parties efforts in A.11-12-011 for the Small LECs and ORA to re-litigate Kerman's cost of capital in this proceeding. ORA recommends that Kerman's cost of capital be eliminated from this proceeding, and Kerman should be required to comply with the cost of capital determined by the Commission in its separate GRC.⁴ Alternatively, if Kerman is to remain within the current proceeding any determination on its cost of capital should be applicable only on a prospective basis to a future GRC filing or a GRC application that is pending at the time of a final decision in this proceeding.

B. Clarification That This Proceeding Will Determine the Cost of Capital for All the Small LECs in Their Next GRCs

The Small LECs' application suggests that each Small LECs' cost of capital will be re-considered in the company-specific GRCs that will be filed in 2016 – 2020. However, this is not administratively efficient, and does not comport with the letter and intent of D.15-06-048, which ordered that "The results of that COC proceeding should be applied in any pending and future GRC application cycles set forth in Section 1/Table 1 of the RCP, including the upcoming 2016-2020 cycle."⁵ Clearly, the intent is to calculate costs of capital for each company that will be applied to all upcoming GRCs pursuant to the RCP.

C. Categorization

ORA agrees with the proposed categorization of this proceeding as ratesetting. Hearings and discovery will likely be necessary. It should be noted that California Senate Bill 660, which is currently pending but not yet signed into law, would prohibit ex parte communications in ratesetting proceedings.

⁴ For reasons that are too complicated to explain here, Kerman filed its GRC in 2011 only 1 month prior to the Commission issuing R.11-11-007, the proceeding that led to this combined cost of capital proceeding. As a result, Kerman's GRC has proceeded outside of the GRC plan ordered here.

⁵ D.15-06-048 at 20.

D. Proposed Schedule

Below, ORA proposes a slightly modified schedule to reflect the actual date of publication of the application in the Commission's Daily Calendar (September 11, 2015) and to ensure that adequate opportunity is provided to respond to any issues determined to be within the scope of this proceeding. As such, ORA's proposed schedule for intervenor testimony is based upon a reasonable amount of time from the date the Commission issues a scoping ruling.

	Small LECs Proposed	ORA Proposed
Application Filed	9/1/2015	9/1/2015
Application Appears in CPUC Daily Calendar	9/8/2015	9/11/2015
Protests and Responses Due (30 days after D.C.)	10/8/2015	10/12/2015
Reply to Protests	10/19/2015	10/22/2015
Pre-Hearing Conference (TBD by ALJ)	10/29/2015	10/29/2015
Scoping Memo (TBD by Assigned Commissioner/ALJ)	-	11/4/2015
Intervenor Proposals and Testimony	11/17/2015	30 days after Scoping Memo (e.g. 12/4/2015)
Rebuttal Testimony by Applicants	12/2/2015	12/18/2015
Evidentiary Hearings	1/12-14/2016	1/12/2016
Opening Briefs	2/12/2016	2/12/2016
Reply Briefs	3/4/2016	3/4/2016
Proposed Decision	5/4/2016	5/4/2016
Comments on Proposed Decision	5/25/2016	5/25/2016
Reply Comments on Proposed Decision	6/6/2016	6/6/2016
Commission Decision Adopted	June 2016	June 2016

V. CONCLUSION

For the reasons stated above, ORA will continue to conduct discovery to develop its testimony and recommendations. Hearings will likely be required and a schedule should be established at the prehearing conference that allows for a thorough review of

the application and adequate time for analysis of issues determined to be within the scope of the proceeding. Because ORA has not completed discovery or prepared its testimony, it reserves the right to assert any issues discovered after this Protest has been filed.

Respectfully submitted,

/s/ TRAVIS T. FOSS

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